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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,592	10/23/2003	In E. Moon	MOON-100	6762
35777	7590	11/15/2005		
SHERMAN & ASSOCIATES 415 NORTH ALFRED STREET ALEXANDRIA, VA 22314			EXAMINER AHMED, AAMER S	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/690,592

Applicant(s)

MOON, IN E.

Examiner

Aamer S. Ahmed

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: on page 9, the heading "Brief Description of the Drawings" is misspelled.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Moon U.S.

Patent Number 5,949,741. Moon discloses an assembly device (see figure 2B) comprising a first tubular portion (24) having a proximal end (50), a distal functional end (38) and a first flexural modulus (col. 3 line 35), the first proximal end (50) of the first tubular portion (24) being in communication with a second tubular portion (54) having a proximal end (34), a distal end (52) and a second flexural modulus (col. 3 line 35) with a bend radius and wherein the proximal end of the second tubular (54) portion is in communication with a means for delivering fluid (18) into the second tubular portion (54); and wherein the proximal portion (50) of the first tubular portion (24) is removably attached to the distal end of the second tubular portion (54) and is mutually welded the distal end of the second tubular portion (col. 5 line 15). Moreover, Moon teaches that the second tubular portion (54) has a generally "U" shape, and the distal portion of the first

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tubular portion has apertures (58) disposed on the distal end of the first tubular portion and the proximal end of the second tubular portion is generally adapted to a toilet attachment (see figure 2B). Moreover, Moon discloses that the toilet attachment is positioned between a toilet seat and a toilet bowl and is connected to a fluid line comprising a tubular irrigation tip defining an outlet, a U-shaped portion having an inlet, and a limited disposed between the irrigation tip and the U-shaped portion at a preset distance from the outlet (see figure 2B); and a base plate (28) with an upper and lower surface (see figure 2A), a rear end and a front end, and first and second ports (46, 48) in the base plate, at least one of the ports being located at the front end, the base plate having at least a portion sized to fit between the toilet seat and toilet bowl (see figures 2A and 2B). Furthermore, Moon recites that the device comprises an insertion limiter (56) extending laterally from the second tubular portion, where the tubular portions are comprised of a material selected from the group consisting of synthetic polymer and the like and blend and copolymers thereof (col. 6 line 22); and wherein the proximal end of the second tubular portion is barbed and the distal end is flat and mutually welded to the proximal end of the first tubular portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moon ('741).

Moon meets the claim limitations as described above but fails to include the distal end of the first tubular portion being 3 inches long and having a 1/4 inch outer diameter and a 1/8 inch outer diameter. Applicant has not disclosed that these specific dimensions solve any stated problem or are for any particular purpose. The instant specification does not indicate that these dimensions are needed to the exclusion of other or similar dimensions. Therefore it appears that the device would perform equally well with the dimensions that provide for different dimensions. Accordingly these dimensions are deemed to be an obvious design consideration, which fails to patentably distinguish over the prior art of Moon ('741).

Claims 12-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon ('741) in view of Leiboff U.S. Patent Number 4,637,814. Moon discloses the device as described above in reference to claim 1, but fails to disclose that the second tubular portions are adapted for receiving an obturator, and are barbed with the distal end flat. Leiboff discloses a similar device in which a second tubular portion (30) is barbed (21) and the distal end (31) is flat and mutually welded to the proximal end of the first tubular portion (29); and wherein the second tubular portions are adapted for receiving an obturator (34) that it comprises of a bulbous end (see figure 2) and a second end separated by a shaft, wherein the shaft has a third flexural modulus and wherein a water hose barb is disposed on the second tubular portion and wherein the water hose barb (21) is disposed on the second tubular portion (30). It would have been

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obvious to one having ordinary skill in the art at the time of invention by the applicant to modify the device of Moon ('741) by incorporating the obturator and barbed portion as taught by Leiboff in order to help gain access for the tubular member (col. 20 line 50).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moon ('741) in view of Leiboff ('814). Moon and Leiboff meet the claim limitations as described above but fails to include first and second tubular portions have an outer diameter of 1 inch. Applicant has not disclosed that these specific dimensions solve any stated problem or are for any particular purpose. The instant specification does not indicate that these dimensions are needed to the exclusion of other or similar dimensions. Therefore it appears that the device would perform equally well with the dimensions that provide for different dimensions. Accordingly these dimensions are deemed to be an obvious design consideration, which fails to patentably distinguish over the prior art of Moon ('741) and Leiboff ('814).

### *Conclusion*

It is the position of the examiner that the applicant has invoked 112 6<sup>th</sup> paragraph means plus function language in claim 1, if this is not the intention of the applicant, then the means plus function language must be amended.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5578017 A      Aguilar; John M. et al.

US 2528095 A      ALFRED WARD

US 2528095 A      ALFRED WARD

US 2007069 A      BERG WILLIAM M

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US 1838356 A	BERRY MARGARET E
US 1838356 A	BERRY MARGARET E
US 2630805 A	BREHM JOHN B
US 2691373 A	BRIED JULIEN A
US 2267909 A	HEINZ GRAUERT
US 5250024 A	Kensey; Kenneth
US 2583298 A	KOWAN MAURICE H
US 4696673 A	Ledin-Bonevik; Birgitta B. M.
US 4842583 A	Majlessi; Heshmat
US 3990448 A	Mather; Byron L. et al.
US 5217439 A	McClusky; Kenneth D.
US 4205402 A	Miller; Daniel C.
US 0343252 A	Name not available
US 4842580 A	Ouelette; Gloria
US 1992132 A	WEYN SPICHER L
US 1992132 A	WEYN SPICHER L

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aamer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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